

The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals meeting to order at 8:30 A.M., on Wednesday, July 2, 2003.

PRESENT: Ted Dziurman  
Rick Kessler  
Tom Rosewarne  
Rick Sinclair  
Tom Smith

ALSO PRESENT: Mark Stimac  
Ginny Norvell  
Pam Pasternak

### **ITEM #1 – APPROVAL OF MINUTES – MEETING OF JUNE 4, 2003**

Motion by Kessler  
Supported by Sinclair

MOVED, to approve the minutes of the meeting of June 4, 2003 as written.

Yeas: All – 5

MOTION TO APPROVE MINUTES CARRIED

### **ITEM #2 – VARIANCE REQUESTED. VENKATA MUKTEVI, 291 FORTHTON, for relief of Chapter 83 to install a 6' high fence.**

Mr. Stimac explained that the petitioner is requesting relief of Chapter 83 to install a 6' high fence in the required front setback. Section 30.10.06 requires a 25' minimum front setback in R-1E Zoning Districts. The site plan submitted indicates that the proposed 6' high fence along the side property line on the west side would be out to the front property line in the required front setback. Chapter 83 limits fences in required front setbacks to 30" in height.

This item last appeared before this Board at the meeting of June 4, 2003 and was postponed to allow the Building Department to contact the Engineering Department for confirmation that pond has been constructed on a "one on six slope"; and, to contact the City Attorney's office to determine the status of their contact with the developer.

Mr. Stimac also explained that the Engineering Department had determined that there are areas of the detention pond that exceed the one on six slope and this area will need to be re-graded before the City will accept this pond. The City Attorney's office is still having discussions with the developer and is holding back their bond money. Mr. Stimac stated that either the developer will re-grade this area or the City will take the responsibility of re-grading and will use the bond money to cover the expense.

Mr. Dziurman asked approximately how much of the common property line between the petitioner's home and the detention pond exceeded the one on six slope and Mr. Stimac said he thought it was about half. Mr. Dziurman then asked if the property would be re-

**ITEM #2 – con't.**

graded to code and Mr. Stimac said that either the City would bring it up to code or the developer would bring it up to code.

Mr. Muktevi was present and stated that his major issue is stagnated water. Mr. Muktevi said that the water ponds approximately 2' to 3' and does not drain correctly, and he has had to call the City to come and clean out the area. Mr. Muktevi also said that he is concerned about the safety of his children and is trying to protect them from this detention pond.

Mr. Dziurman asked if the stagnated water is due to the improper grading. Mr. Stimac said that he was not aware of any drain or construction issue that would cause the water to stand that long. Mr. Stimac explained that all detention ponds are designed to retain water. Mr. Muktevi said that the water does not drain out, but will stand for 2 or 3 days.

Mr. Dziurman asked why Mr. Muktevi wanted a 6' high fence rather than a 4' high fence and Mr. Muktevi said he did not think a 4' high fence would give his children the security he is looking for.

Mr. Dziurman then asked if a 4' high fence could be put along the back side of the property and Mr. Stimac said that Mr. Muktevi could put up a 6' high fence along most of the west property line and comply with the Ordinance, he just could not put a 6' high fence in the front yard. Mr. Dziurman asked if Mr. Muktevi was aware of this and he said he was.

Mr. Rosewarne said that presently the City does not maintain the pond because the developer has not finished the detention pond to code. Mr. Rosewarne also said that once the property is re-graded to a one six slope, the City will maintain same. Mr. Rosewarne also said that presently there is only a 3" outlet hole in this pond and he believes that without proper maintenance the outlet easily clogs and this is why it takes so long for the water to drain.

Mr. Kessler said that he believes that if a variance was granted, this privacy fence would be the focal point of any traffic entering the sub. Mr. Kessler also said that he thinks there are other options available until the problem with the detention pond is resolved. Mr. Kessler further stated that at the time the home was purchased the detention pond was in place and thinks that the children will need to be supervised more closely until the area is re-graded. Mr. Muktevi responded by saying that he did not know at the time he purchased the home that he would not be able to put up a fence. Mr. Kessler said even if he put the fence up in this area it still would not prevent his children from going into the pond.

**ITEM #2 – con't.**

Mr. Sinclair asked how high a fence could be erected in the front yard. Mr. Stimac said that a fence in the front yard is limited to 30" in height; however if Mr. Muktevi wished he could put up a 6' high privacy fence beyond the front setback line.

Motion by Kessler

Supported by Rosewarne

MOVED, to deny the request of Venkata Muktevi, 291 Forthton, for relief of Chapter 83 to install a 6' high fence in the front setback.

- Property owner can install a privacy fence to enclose his property and comply with the Ordinance.
- Variance would be contrary to public interest.
- Detention pond will be brought up to City standards.

Yeas: All – 5

**MOTION TO DENY REQUEST CARRIED**

Mr. Muktevi then asked if he would be allowed to put up a fence that is 4' high. Mr. Stimac said that he could put up a 4' high fence from the property line to the house, and that he could enclose the entire area with a 6' high fence; however these fences could not be erected in the front setback. Mr. Muktevi indicated that he thought a privacy fence around his yard would be too expensive. Mr. Stimac then suggested that Mr. Muktevi come to the Building Department and discuss options available to him.

**ITEM #3 – VARIANCE REQUESTED. KATHY MCDONALD, 196 BIRCHWOOD,** for relief of Chapter 83 to erect a 6' high privacy fence.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 83 to install a 6' high privacy fence at 196 Birchwood. This lot is a double front corner lot with a common rear yard to rear yard relationship. As such, it has front yard requirements along both Birchwood and Hartshorn. Chapter 83 limits fences in the required front setback along Hartshorn to non-obscuring fences not more than 48" in height. The site plan submitted indicates a 6' high obscuring fence in this required setback.

Mr. Adam McDonald was present and said that when he originally purchased his home it had a cyclone fence completely around the property line. In 1998 an addition was added to the home and now he would like to put up a privacy fence and push it out 9' from their home, which would put the fence approximately 1' from the sidewalk. Mr. McDonald explained that this would allow him the room to put up a swing set for his children and add additional security for their pool.

**ITEM #3 – Con't.**

Mr. Dziurman asked how much fencing Mr. McDonald was asking to put in and Mr. McDonald said it would be approximately 35'. Mr. Dziurman explained that usually the Board does not like to allow for a fence in this area, because it creates an obstruction when pulling out of the garage. Mr. McDonald said he does not park his car in either the garage or the driveway.

Mr. Kessler expressed concern that because of the house and garage location, he does not believe that there is adequate space to move the fence out. Mr. McDonald asked if it would make a difference if he set the fence diagonally and Mr. Kessler again stated that he did not think there was enough room to move the fence. Mr. McDonald then asked if he had seen the other fences on Woodslee and Hartshorn and Mr. Kessler said that he had, however, was not familiar with the history on these properties.

Mr. McDonald then stated that each time they have tried to do something to their home it has been a problem because of the setbacks. Mr. Stimac stated that this home is a legal non-conforming structure in that it was built with a reduced setback from the east side of the property. Mr. Stimac explained that if it was built now it would have a 25' front yard setback from Hartshorn.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are two (2) written objections on file. There is one (1) written approval on file.

Motion by Kessler  
Supported by Rosewarne

MOVED, to deny Mr. & Mrs. McDonald, 196 Birchwood, relief of Chapter 83 to erect a 6' high privacy fence in the front setback along Hartshorn.

- Variance is contrary to public interest.
- Variance would have an adverse effect to surrounding property.

Yeas: All – 5

MOTION TO DENY VARIANCE CARRIED

**ITEM #4 – VARIANCE REQUESTED. GREGORY NIES, 5010 ABINGTON,** for relief of Chapter 83 to install a 48" high chain link fence.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 83 to install a 48" high chain link fence. This lot is a double front lot. As such, it has front yard requirements along both Abington and East Long Lake Road. Chapter 83 limits fences

**ITEM #4 – con't.**

in required front setbacks to 30" in height. The site plan submitted indicates a 48" high chain link fence in the front setback along East Long Lake Road.

Mr. Steve Lomakoski, the co-owner of this home was present and states that the reasons they would like to put up this fence is to help control litter thrown from passing cars, to keep the children from riding their bikes through the yard and to give their dog extra room to run.

The Chairman opened the Public Hearing.

Ms. Nancy Zebracki, 1220 E. Long Lake, was present and stated that she approves of this request. Ms. Zebracki indicated that she would rather look at the fence, than what is located on either side of her home.

No one else wished to be heard and the Public Hearing was closed.

There are two (2) written approvals on file. There are no written objections on file.

Mr. Kessler asked for clarification of the reason Mr. Lomakoski wanted this fence, and Mr. Lomakoski said that it was to give their dog some extra room to run and also to help keep the kids in the neighborhood from riding their bikes in the yard, and to keep litter from passing cars to a minimum.

Mr. Lomakoski further stated that they would like to install this fence approximately 2' – to 2 ½ ' from the sidewalk to add extra landscaping to not only buffer the appearance of the fence, but also to buffer some of the noise from the traffic on Long Lake. Mr. Dziurman indicated that the Board would like to see more landscaping along the fence line. Mr. Kessler suggested that the fence be placed 5' from the property line, and Mr. Dziurman asked if the petitioner would consider this restriction. Mr. Lomakoski stated that he did not have a problem with placing the fence 5' from the property line.

Motion by Kessler  
Supported by Sinclair

MOVED, to grant Steve Lomakoski, 5010 Abington, relief of Chapter 83 to install a 48" high chain link fence.

- Fence will be installed 5' from the property line.
- Homeowners will add extra landscaping to buffer the fence line along Long Lake.
- Variance is not contrary to public interest.

Yeas: All

MOTION TO GRANT VARIANCE CARRIED

**ITEM #5 – VARIANCE REQUESTED. TOM STRAT, 5044-5064 CHRISTY CT.,** for relief of Chapter 78 to maintain a sign, which has been erected in the required setback from Long Lake Road.

Mr. Stimac explained that the petitioner is requesting relief to maintain a sign, which has been erected in the required setback from Long Lake Road. Table A of Section 9.01 of Chapter 78 requires that a sign be setback a minimum of 10' from the public right of way. The existing sign is currently setback 9'-4" from the right of way of Long Lake Road.

Mr. Strat was present and stated that the site had been properly staked out, but unfortunately they ran into some boulders during the installation and the stakes were destroyed. Mr. Strat said that they did not have any intention of not complying with the Ordinance, and this installation was an accident.

Mr. Dziurman confirmed that the sign is now 9'-4" from the right of way line and Mr. Strat said that it was. Mr. Strat also said that it would be extremely costly for him to remove the columns and re-install the sign.

Mr. Kessler said that economics is not something that the Board looks at when granting a variance; however, he thought that the landscaping and mature trees that are around the sign would be damaged if the sign were to be removed. Mr. Kessler also indicated that he thought that if the sign were moved farther back, it would be very difficult for passing motorists to see. Mr. Strat also pointed out that there is a drain and bridge that are very close to the location of the sign.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are four (4) written objections on file. There are no written approvals on file.

Mr. Dziurman indicated to Mr. Strat that based on the objections that were received, it appears that Mr. Strat does not have a very good relationship with the neighbors and suggested that he try and improve this relationship. Mr. Strat was quite surprised and asked to take the copies of the objections with him. Mr. Kessler gave Mr. Strat a copy of these objections.

Mr. Sinclair asked if the columns would have to be moved, or if just a part of the sign could be moved. Mr. Stimac said that he did not think the columns were encroaching, just the actual sign itself.

Mr. Rosewarne asked what the sign was constructed of and Mr. Strat said it was plywood and the columns were set in cement up to a depth of 4'.

Mr. Dziurman then asked if the sign itself could be moved and Mr. Strat said that the whole sign would have to be taken down as it is laminated around the columns.

**ITEM #5 – con't.**

Mr. Kessler asked what will happen to the sales portion of the sign after all units are sold and Mr. Strat said that it would be removed and the would fill in the space with some type of graphics.

Mr. Sinclair asked what would happen if a variance was not granted and Mr. Stimac indicated that the sign would have to be moved.

Mr. Smith asked if just a portion the sign could be removed. Mr. Stimac said that if they were to remove 8" of the southerly portion of the sign it would then be in conformance. Mr. Smith asked if that was feasible, and Mr. Strat said it would be too expensive to re-do the sign

Motion by Kessler  
Supported by Smith

MOVED, to grant Tom Strat, 5044-5064 Christy Ct., relief of Chapter 78 to maintain a sign, which has been erected 9'-4" from the right of way of Long Lake Road.

- Mature trees and landscaping could be lost is sign was removed.
- If the sign were moved back, it would be difficult to see.
- Variance is not contrary to public interest.

Yeas: 4 – Dziurman, Kessler, Rosewarne, Smith  
Nays: 1 – Sinclair

MOTION TO GRANT VARIANCE CARRIED

The Building Code Board of Appeals meeting adjourned at 9:25 A.M.

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Ted Dziurman, Chairman

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Pam Pasternak, Recording Secretary

MS/pp